

STATEMENT OF SENATOR JOHN MCCAIN
CHAIRMAN, SENATE COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION
FULL COMMITTEE HEARING
ON TOBACCO
MARCH, 24, 1998

Welcome. This is the Commerce Committee's tenth, and I believe final hearing on the proposed tobacco settlement. We have established a very thorough Record, and have heard testimony on almost every aspect of the settlement and implementing legislation.

The purpose of today's hearing is to explore in detail three fundamental questions about the legislation: cost; constitutionality and bankruptcy.

First we will hear from the Department of the Treasury regarding the Administration's position on the financial aspects of the legislation--in other words, the yearly payments that should be required of the tobacco industry and precisely how much these payments will increase the price per pack of tobacco products. We will also receive their input as to what threshold price increases create a problem with contraband--which is a serious public health threat.

As we all know, the public health community believes strongly the most important step we can take to deter youth smoking is to increase the price of tobacco products. That is one of the goals of this legislation, as is the goal of receiving from the industry appropriate compensation in return for extinguishing pending state lawsuits and other current tort proceedings. However, we all recognize there is a point at which black markets and bankruptcy are a legitimate concern.

We will also hear from experts what outcomes we can expect from bankruptcy scenarios. Some critics of a global settlement believe we should simply increase taxes on tobacco products dramatically and maintain the status quo in the industry's liability exposure.

We all know how successful the industry has been in fending off lawsuits, and many experts believe that even with the continuous revelation of documents exposing the industry's turpitude, juries will continue not to find against the industry, because most smokers knew the practice was risky and unhealthy. Under this theory, the payments required of the industry would exceed their real exposure.

However, some do not share that view and maintain that significant and financially devastating judgements are just around the corner and that bankruptcy is just and fitting retribution. However, as we will hear, bankruptcy poses significant problems in terms of public health and in ensuring compensation from the industry.

Finally, we will receive important testimony from Constitutional scholars. Again, the proposed settlement is based on a fundamental trade off. In exchange for giving up certain commercial and Constitutional rights, paying billions of dollars and accepting severe regulatory oversight, the industry would receive certain restrictions in their liability.

Some have questioned whether the industry's consent is necessary to achieve our goals including far reaching advertising and marketing restrictions; the payment of large financial penalties if the number of youth who smoke exceed our national reduction goals; changes in corporate culture, and the acceptance of unprecedented regulation over the industry.

I hope our witnesses will be able to shed light on these important questions. Before concluding I simply want to thank the members of the Committee for their patience, fortitude and commitment throughout this rather rigorous hearing process.

This Committee is working to put together a piece of legislation that will merit wide bi-partisan support, and which will have the backing of the public health community and the Administration. This will not be easy, and there is no assurance of success. But, our great purpose--to dramatically reduce the number of youth who will take up a lifetime addiction that will probably kill them-is a worthy one.

I remain confident that, ultimately, we will reach a consensus we can all be proud of, because that is what the American people expect of us.

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